

PATENT  
450100-03152

### **REMARKS/ARGUMENTS**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the remarks herewith, which place the application into condition for allowance. The present response is being made to facilitate prosecution of the application.

### **I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1-22 are pending in this application. Claims 1, 8, 13, 19, and 21 are independent.

### **II. REJECTIONS UNDER 35 U.S.C. §103(a)**

Claims 1-22 were rejected under 35 U.S.C. 103(a) as allegedly unpatentable over U.S. Patent No. 4,422,093 to Pargée, Jr., et al. in view of U.S. Patent No. 6,591,247 to Stern and U.S. Patent No. 6,611,842 to Brown and further in view of U.S. Patent No. 6,839,685 to Leistensnider, et al.

As understood by Applicants, U.S. Patent No. 4,422,093 to Pargée, Jr., et al. (hereinafter, merely "Pargée") relates to a visual service that employs the full facilities of a television communication channel on an intermittent basis. A user chooses still picture frames that contain subject matter of interest.

As understood by Applicants, U.S. Patent No. 6,591,247 to Stern (hereinafter, merely "Stern") relates to a system to disseminate information concerning multiple products that includes a database containing the information and that provides a perceivable stimulus to a consumer positioned proximate to the site.

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As understood by Applicants, U.S. Patent No. 6,611,842 to Brown (hereinafter, merely "Brown") relates to a computer system that includes a database that stores user histories of selected products, and associates products with assessments of their content in a number of different categories.

As understood by Applicants, U.S. Patent No. 6,839,685 to Leistensnider, et al. (hereinafter, merely "Leistensnider") relates to a system for selecting stock equities for inclusion in a strategic investment portfolio that includes identifying stocks making up a preselected index, and that analyzes the stocks for dividends, earnings per share, earnings growth, market capitalization, and economic sector according to a predetermined criteria selected according to the investment strategy.

Applicant respectfully submits that the 35 U.S.C. §103(a) rejection over Pargee, Brown, Stern, and Leistensnider fails to establish a *prima facie* case of obviousness, because there is no motivation for combining the references.

Pargee is directed to a television service, Brown is directed to a using a database to store user histories, and Stern is directed to a disseminating information using a database. However, Leistensnider is directed to a creating a stock portfolio of stock equities.

One of ordinary skill in the art would not be motivated to modify the teachings of Pargee, Brown, and Stern with those of Leistensnider, as asserted in the Office Action.

Furthermore, Applicant submits that the combination is a result of improper hindsight. It is impermissible to use the claimed invention as a "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. It is well-established that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the

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prior art to deprecate the claimed invention. (See, *In re Fritch*, 972 F. 2d 1260, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992)).

Applicants respectfully submit that even assuming, *arguendo*, that one of ordinary skill in the art would be motivated to modify the teachings of Pargee, Brown, and Stern with those of Leistensnider, as asserted in the Office Action, Leistensnider fails to teach, specifically, judging whether or not it is possible to pay back a share of the earnings and initiating a process to decide on items applicable to pay back when it is judged that pay back is possible, as recited in claim 1.

The cited portions of Leistensnider disclose a database that is made up of financial data points that are subjected to a filter. The data points included the database are described in column 2, lines 55-67, and the filter is described in column 3, lines 30-47. The point of Leistensnider is to create a desired stock portfolio that reflects a specific strategy from a database that contains information on a plurality of stocks.

Therefore, Applicants submit that claim 1 is patentable. Independent claims 8, 13, 189, and 21 are similar in scope and are, therefore, also believed to be patentable.

### III. DEPENDENT CLAIMS

The other claims are each dependent from one of the independent claims discussed above and are therefore believed patentable for at least the above-identified reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

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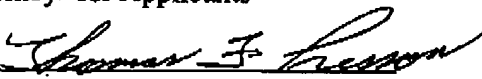
**CONCLUSION**

In the event the Examiner disagrees with any of the statements appearing above with respect to the disclosures in the cited references, it is respectfully requested that the Examiner specifically indicate the portion, or portions, of the reference, or references, providing the basis for a contrary view.

In view of the foregoing remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,  
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